

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1363

AN ACT

AMENDING SECTION 15-539, ARIZONA REVISED STATUTES; RELATING TO SCHOOL EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-539, Arizona Revised Statutes, is amended to
3 read:

4 15-539. Dismissal of certificated teacher; due process; written
5 charges; notice; hearing on request

6 A. Upon a written statement of charges presented by the
7 superintendent, charging that there exists cause for the suspension without
8 pay for a period of time greater than ten school days or dismissal of a
9 certificated teacher of the district, the governing board ~~shall~~, except as
10 otherwise provided in this article, SHALL give notice to the teacher of its
11 intention to suspend without pay or dismiss the teacher at the expiration of
12 thirty days from the date of the service of the notice.

13 B. Whenever the superintendent presents a statement of charges wherein
14 the alleged cause for dismissal constitutes immoral or unprofessional
15 conduct, the governing board may adopt a resolution that a complaint be filed
16 with the department of education. Pending disciplinary action by the state
17 board of education, the certificated teacher may be reassigned by the
18 superintendent or placed on administrative leave by the board pursuant to
19 section 15-540.

20 C. The governing board shall give a certificated teacher who has been
21 employed by the school district for more than the major portion of three
22 consecutive school years notice of intention to dismiss if its intention to
23 dismiss is based on charges of inadequacy of classroom performance as defined
24 by the governing board pursuant to subsection D of this section. The
25 governing board or its authorized representative shall give the teacher a
26 written preliminary notice of inadequacy of classroom performance at least
27 ten instructional days prior to the start of the period of time within which
28 to correct the inadequacy and overcome the grounds for the charge. The
29 governing board may delegate to employees of the governing board the general
30 authority to issue preliminary notices of inadequacy of classroom performance
31 to teachers pursuant to this section without the need for prior approval of
32 each notice by the governing board. In all cases in which an employee of the
33 governing board issues a preliminary notice of inadequacy of classroom
34 performance without prior approval by the governing board, the employee shall
35 report its issuance to the governing board within five school days. The
36 written preliminary notice of inadequacy of classroom performance shall
37 specify the nature of the inadequacy of classroom performance with such
38 particularity as to furnish the teacher an opportunity to correct the
39 teacher's inadequacies and overcome the grounds for the charge. The written
40 preliminary notice of inadequacy of classroom performance shall be based on a
41 valid evaluation according to school district procedure, shall include a copy
42 of any evaluation pertinent to the charges made and shall state the date by
43 which the teacher has to correct the inadequacy and overcome the grounds for
44 the charge. That evaluation shall not be conducted within ~~two~~ FIVE
45 instructional days of any school break of one week or more. The written

1 preliminary notice of inadequacy of classroom performance shall allow the
2 teacher not less than eighty-five instructional days within which to correct
3 the inadequacy and overcome the grounds for the charge. If within the time
4 specified in the written preliminary notice of inadequacy of classroom
5 performance the teacher does not demonstrate adequate classroom performance,
6 the governing board shall dismiss the teacher either within thirty days of
7 the service of a subsequent notice of intention to dismiss or by the end of
8 the contract year in which the subsequent notice of intention to dismiss is
9 served unless the teacher has requested a hearing as provided in subsection G
10 of this section. If the teacher demonstrates adequate classroom performance
11 during the period allowed to correct such deficiencies as specified in the
12 written preliminary notice of inadequacy of classroom performance, the
13 governing board may not dismiss the teacher for the reasons specified in the
14 written preliminary notice of inadequacy of classroom performance. If the
15 governing board of a school district has received approval to budget for a
16 career ladder program, the governing board may define inadequacy of classroom
17 performance by establishing a single level of performance which is required
18 of all teachers or by establishing more than one required level of
19 performance. If more than one level is established, the same level of
20 performance for minimum adequacy shall be required of all teachers who have
21 completed the same number of years of teaching in the district.

22 D. The governing board shall develop a definition of inadequacy of
23 classroom performance that applies to notices issued pursuant to section
24 15-536, section 15-538 and this section. The governing board shall develop
25 its definition of inadequacy of classroom performance in consultation with
26 its certificated teachers. The consultation may be accomplished by holding a
27 public hearing, forming an advisory committee, providing teachers the
28 opportunity to respond to a proposed definition or obtaining teacher approval
29 of a career ladder program which defines inadequacy of classroom performance.

30 E. Any written statement of charges alleging unprofessional conduct,
31 conduct in violation of the rules or policies of the governing board or
32 inadequacy of classroom performance shall specify instances of behavior and
33 the acts or omissions constituting the charge so that the certificated
34 teacher will be able to prepare a defense. If applicable, it shall state the
35 statutes, rules or written objectives of the governing board which the
36 certificated teacher is alleged to have violated and set forth the facts
37 relevant to each occasion of alleged unprofessional conduct, conduct in
38 violation of the rules or policies of the governing board or inadequacy of
39 classroom performance.

40 F. The notice shall be in writing and shall be served upon the
41 certificated teacher personally or by United States registered or certified
42 mail addressed to the teacher's last known address. A copy of the charges,
43 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
44 15-541, 15-542 and 15-544 through 15-547 shall be attached to the notice.

1 G. The certificated teacher who receives notice that there exists
2 cause for dismissal or suspension without pay shall have the right to a
3 hearing if the teacher files a written request with the governing board
4 within thirty days of service of notice. The filing of a timely request
5 shall suspend the imposition of a suspension without pay or a dismissal
6 pending completion of the hearing.